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10/695,223	10/28/2003	Perriann M. Holden	810101-3	4944
33651	7590	02/02/2006	EXAMINER	
JERRY RICHARD POTTS 3248 VIA RIBERA ESCONDIDO, CA 92029			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/695,223

**Applicant(s)**

HOLDEN, PERRIANN M.

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,5,13-24 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) 4,19,20,30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,13-18,21-24,26-29 and 32-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 11/27/05 has been entered.

### ***Response to Amendment***

This is in response to amendment of 11/27/05. Claims 1, 5, 13-18 and 21-24, 26-29 and 32-35 are pending in this case. The status of claims 4, 6-12, 19 and 20 are unclear. In amendment of 03/18/05 those claims were cancelled and then in amendment of 11/27/05 those claims are withdrawn. These claims need to be addressed and labeled properly to avoid a notice of non-compliance. All pending claims are being examined to further prosecution, but Applicant is warned of bringing in additional embodiments into the claims.

### ***Priority***

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 09/910,641 and 10/454,236, filed 07/20/2001 and 06/06/2003, respectively. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a).

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For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or

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(a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

### ***Specification***

2. The amendment filed 03/18/05 and 06/17/05 are objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the related applications section from the originally filed specification is different from that of the 03/18/05 and 06/17/05 specifications.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claim 21, there is no support in the disclosure for “non-skin irritating adhesive”.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: in claims 23, there is no support in the disclosure for “reusable adhesive means is a layered seat barrier”.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support in for the hook or piles providing the pad with a decorated textured finish.
7. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

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matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the attachment engaging surface including decorative indicia.

8. Claim 24 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the layered sweat barrier being a strip of polyurethane tape with two layers waterproof adhesive and another layer of polyurethane tape with a reusable adhesive layer.

9. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the hard shell pre-formed cupped pad being selected for the toes or animal pads. The only disclosure for use of the hard shell pad is on the knees, elbows or shins.

10. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to

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reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the layer of hooks or piles provided a decoration.

11. Claim 28 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the hard shell pre-formed pad providing decoration to the user's selected body part.

12. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the hook or piles having a decoration consisting of color, pattern, graphic design, text, advertising and relief design.

13. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is

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no support for the layer of thistle cloth providing the pad with a decorated textured finish.

14. Claim 34 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. there is no support for the thistle cloth layer providing the pad with a decorated textured finish.

#### ***Double Patenting***

15. Claims 1, 5, 13-18, 21, 27 and 32-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21, 22, 23, 27, 29 and 32 of copending Application No. 09/910,641 in view of Hattori (US 4,553,550).

In regard to claim 1, 09/910,641 teaches a novelty fashion wear item. A flexible pad having a planar body engaging surface and an attachment engaging surface. The planar body engaging surface is coated throughout with reusable adhesive means for removably securing the pad to a body part (claims 21-23).

However, 09/910,641 fails to teach the attachment engaging surface is covered through with a layer of either hooks or piles for providing the pad with a decorated textured finish.

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Hattori teaches an adhesive pad for attachment the skin of a user. The attachment engaging surface is covered through with a layer of either hooks or piles and provides the pad with a decorated textured finish (figure 4c).

In regard to claim 5, 09/910,641 teaches the pad is a single piece construction composed of a cushioning material (claims 21-23).

In regard to claim 13, 09/910,641 teaches the pad is sufficiently flexible to conform to the contour of a user selected body part consisting of a group of body parts selected from the hands, fingers, feet toes, knees and elbows or a user to provide protection for the body part selected (claims 21-23 and 29).

In regard to claim 14, Hattori teaches the pad being made of fabric (column 5, lines 65-67).

In regard to claim 15, 09/910,641 teaches the pad capable of being trimmable and disposable after use (claims 21-23).

In regard to claim 16, 09/910,641 teaches the attachment engaging surface including decorative indicia (claims 21-23 and 32).

In regard to claim 17, 09/910,641 teaches the pad being composed of a body protecting material (claims 21-23).

In regard to claim 18, 09/910,641 teaches the pad being composed of a cushioning material.

In regard to claim 21, 09/910,641 teaches the adhesive means being a non-irritating adhesive (claim 23).

In regard to claim 27, Hattori teaches the hook or piles providing a textured pattern decoration (figure 4c).

In regard to claim 32, 09/910,641 teaches a novelty fashion wear item. A flexible pad having a top surface covered by a layer of adhesive and a bottom surface (figures 21-23).

However, 09/910,641 fails to teach the bottom surface of the pad being at least partially covered with a layer of thistle cloth for providing the pad with a decorated texture finish.

Hattori teaches a pad having a bottom surface being at least partially covered with a layer of thistle cloth for providing the pad with a decorated texture finish (figure 4c).

In regard to claim 33, Hattori teaches the thistle cloth is a complimentary thistle cloth for engaging another layer of thistle cloth (figures 5a, 5b).

In regard to claim 34, Hattori teaches the another layer of thistle cloth providing the pad with a decorated textured finish (figure 4c).

In regard to claim 35, Hattori teaches the another layer of thistle cloth being affixed to a protective shell for protecting a body part from direct ground contact (Figure 9a).

It would have been obvious to have provided the adhesive pad of 09/910,641 with the hook or piles attachment surface of Hattori, since the adhesive pad of 09/910,641 with hook or piles attachment surface would provide a pad that is capable of securing additional layers to the pad based on desired end use.

This is a provisional obviousness-type double patenting rejection.

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16. Claims 1, 5, 13-18, 21-24, 27 and 32-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 52-57, 59-68 and 73-74 of copending Application No. 10/454,236 in view of Hattori.

In regard to claim 1, 10/454,236 teaches a novelty fashion wear item. A flexible pad having a planar body engaging surface and an attachment engaging surface. The planar body engaging surface is coated throughout with reusable adhesive means for removably securing the pad to a body part (claims 52, 73).

However, 10/454,236 fails to teach the attachment engaging surface is covered through with a layer of either hooks or piles for providing the pad with a decorated textured finish.

Hattori teaches an adhesive pad for attachment the skin of a user. The attachment engaging surface is covered through with a layer of either hooks or piles and provides the pad with a decorated textured finish (figure 4c).

In regard to claim 5, 10/454,236 teaches the pad is a single piece construction composed of a cushioning material (claim 65).

In regard to claim 13, 10/454,236 teaches the pad is sufficiently flexible to conform to the contour of a user selected body part consisting of a group of body parts selected from the hands, fingers, feet toes, knees and elbows or a user to provide protection for the body part selected (claims 52-54).

In regard to claim 14, Hattori teaches the pad being made of fabric (column 5, lines 65-67).

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In regard to claim 15, 10/454,236 teaches the pad capable of being trimmable and disposable after use (claims 52, 73).

In regard to claim 16, 10/454,236 teaches the attachment engaging surface including decorative indicia (claims 55, 61).

In regard to claim 17, 10/454,236 teaches the pad being composed of a body protecting material (claims 52, 73).

In regard to claim 18, 10/454,236 teaches the pad being composed of a cushioning material (claims 52, 73).

In regard to claim 21, 10/454,236 teaches the adhesive means being a non-irritating adhesive (claim 68).

In regard to claim 22, 10/454,236 teaches the reusable adhesive means is layered adhesive means. A two sided acrylic pressure sensitive adhesive transfer tape attached to the body engaging surface and a polyurethane backing with one of its surfaces coated with an acrylate adhesive for fixing it to the two sided acrylic pressure sensitive transfer tape (claims 52, 54, 73).

In regard to claim 23, 10/454,236 teaches the reusable adhesive means being a layered waterproof means and therefor also a sweat barrier (claims 52, 73).

In regard to claim 24, 10/454,236 teaches a layered sweat barrier. A strip of polyurethane tape having a pad facing surface and a body part facing surface. The body part facing surface being coated with a layer of waterproof adhesive and the pad facing surface being coated with another layer of waterproof adhesive for securing the strip of polyurethane tape to the body engaging

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surface. Another strip of polyurethane tape having another pad facing surface and another body part facing surface. The another body part facing surface is coated with a skin compatible reusable adhesive layer for facilitating removably securing the pad to the user selected body part. The strip of polyurethane tape and the another strip of polyurethane tap are secured to one another by the layer of waterproof adhesive disposed on the body part facing surface of the strip of polyurethane tape (claims 52, 54, 73).

In regard to claim 27, Hattori teaches the hook or piles providing a textured pattern decoration (figure 4c).

In regard to claim 32, 10/454,236 teaches a novelty fashion wear item. A flexible pad having a top surface covered by a layer of adhesive and a bottom surface (claim 52, 73).

However, 10/454,236 fails to teach the bottom surface of the pad being at least partially covered with a layer of thistle cloth for providing the pad with a decorated texture finish.

Hattori teaches a pad having a bottom surface being at least partially covered with a layer of thistle cloth for providing the pad with a decorated texture finish (figure 4c).

In regard to claim 33, Hattori teaches the thistle cloth is a complimentary thistle cloth for engaging another layer of thistle cloth (figure 5a, 5b).

In regard to claim 34, Hattori teaches the another layer of thistle cloth providing the pad with a decorated textured finish (figure 5a, 5b).

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In regard to claim 35, Hattori teaches the another layer of thistle cloth being affixed to a protective shell for protecting a body part from direct ground contact (figure 9a).

It would have been obvious to have provided the adhesive pad of 10/454,236 with the hook or piles attachment surface of Hattori, since the adhesive pad of 10/454,236 with hook or piles attachment surface would provide a pad that is capable of securing additional layers to the pad based on desired end use.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 102***

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claims 1, 5, 13-18, 21, 27 and 32-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hattori (US 4,553,550).

In regard to claim 1, Hattori teaches a novelty fashion wear item. A flexible pad having a planar body engaging surface and an attachment engaging surface. The planar body engaging surface is coated throughout with reusable adhesive means for removably securing the pad to a body part. Further, Hattori teaches an adhesive pad for attachment the skin of a user. The attachment engaging surface

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is covered through with a layer of either hooks or piles and provides the pad with a decorated textured finish (figure 4c).

In regard to claim 5, Hattori teaches the pad is a single piece construction composed of a cushioning material (column 5, lines 65-67).

In regard to claim 13, Hattori teaches the pad is sufficiently flexible to be capable of conforming to the contour of a user's selected body part consisting of the hands, fingers, feet toes, knees and elbows or a user to provide protection for the body part selected (figures 1-38).

In regard to claim 14, Hattori teaches the pad being made of fabric (column 5, lines 65-67).

In regard to claim 15, Hattori teaches the pad capable of being trimmable and disposable after use (column 5, lines 65-67).

In regard to claim 16, Hattori teaches the attachment engaging surface including decorative indicia (figure 4c).

In regard to claim 17, Hattori teaches the pad being composed of a body protecting material (column 5, lines 65-67).

In regard to claim 18, Hattori teaches the pad being composed of a cushioning material (column 5, lines 65-67).

In regard to claim 21, Hattori teaches the adhesive means being a non-irritating adhesive (column 8, lines 29-49).

In regard to claim 27, Hattori teaches the hook or piles providing a textured pattern decoration (figure 4c).

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In regard to claim 32, Hattori teaches a novelty fashion wear item. A flexible pad (3) having a top surface covered by a layer of adhesive (5) and a bottom surface (figure 4c). A bottom surface being at least partially covered with a layer of thistle cloth (10) for providing the pad with a decorated texture finish (figure 4c).

In regard to claim 33, Hattori teaches the thistle cloth is a complimentary thistle cloth for engaging another layer of thistle cloth (figure 5a, 5b).

In regard to claim 34, Hattori teaches the another layer of thistle cloth providing the pad with a decorated textured finish (figure 5a, 5b).

In regard to claim 35, Hattori teaches the another layer of thistle cloth being affixed to a protective shell for protecting a body part from direct ground contact (figure 9a).

### ***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori in view of Larsson (US 5,032,103).

Hattori teaches an adhesive pad as described above in claim 1. The pad of Hattori is capable of being applied to the user's toes, knees, elbows and animal pads as desired. Additionally, Hattori teaches a pad with hooks or piles

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that are complimentary to another portion having hook or piles. However, Hattori fails to teach a hard shell pre-formed cupped pad having a predefined shape, wherein the hard shell pre-formed cupped pad has another layer of either hooks or piles for engaging at least a portion of the layer of either hooks or piles secured to the bottom surface. The layer of hook or piles would inherently add further decoration to the pad as a pattern textured decoration.

Larsson teaches a hard shell pre-formed cupped pad having a predefined shape (figures 1-4: column 2, lines 42-49).

It would have been obvious to have provided the adhesive pad of Hattori that is connectable to a breast covering by complimentary hooks or piles, since the adhesive pad of Hattori provided with a hard shell pre-formed shaped breast covering would provide a pad that further protects the user from not only impact but sharp objects greatly protecting the user's breast below.

21. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori in view of Mower (US 3,092,103).

Hattori teaches an adhesive pad as described above in claim 1. However, Hattori fails to teach the layered waterproof adhesive construction.

In regard to claims 22 and 24, Mower teaches an adhesive that is capable of being reused. The layered adhesive means that is waterproof (see figure 3). A two pressure sensitive adhesive transfer tape attached to the body engaging surface and a waterproof film backing with one of it's surfaces coated with a achieve to affix to the transfer tape (column 2, lines 36-52). Further, the backing

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of Mower has an adhesive to be compatible with a user's skin (column2, lines 64-69).

It would have been obvious to have provided the pressure sensitive adhesive transfer tape with two or one sided adhesive because as long as the transfer tape is attached to the waterproof film or polyurethane backing, the number of layers of adhesive are irrelevant.

It would have been further obvious to have provided the adhesive on the transfer tape being an acrylic adhesive or any other adhesive as long as the adhesive secures that transfer tape to the pad body and to the waterproof film.

It would have been obvious to have provided the backing to be made out of polyurethane or from vinyl, polyethylene, acetate film or polyester film, because as long as the backing provides a waterproof barrier the type of material can be chosen from many well known in the apparel arts.

In regard to claim 23, it would have been obvious that the waterproof adhesive layered pad of Mower would also inherently be a sweat barrier.

It would have been obvious to have provided the adhesive pad with hook and piles of Hattori with the layered adhesive as taught in Mower, because the adhesive pad of Hattori provided with a layered adhesive would provide a pad with waterproof adhesive means for optimal performance during swimming or activities involving perspiration.

### ***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rushton, Strock, Buckley, Bracken, McCracken, Mitra,

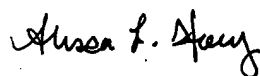
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Kobe, Schultz, Wen, Olsen, Dawson, Chong, Dohan, Cisneros, Chen, Kreckel and Gorski et al. are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alissa L. Hoey  
Primary Examiner  
Technology Center 3700